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PART V

Bills introduced in the Constituent Assembly of India (Legislative), Reports of Select Committees presented to the Constituent Assembly of India (Legislative) and Bills published under Rule 39 of the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business.

GOVERNMENT OF INDIA

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

The following Bills were introduced in the Constituent Assembly of India, (Legislative) on the 10th March, 1949:—

A. BILL NO. 25 OF 1949.

A Bill to provide for the removal of certain existing discriminations in favour of Europeans and Americans in the criminal law of the Provinces of India.

WHEREAS it is expedient to provide for the removal of certain existing discriminations in favour of Europeans and Americans in the criminal law of the Provinces of India;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Criminal Law (Removal of Racial Discriminations) Act, 1949.

(2) It extends to all the Provinces of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. Amendment of Act XLV of 1860.—In the Indian Penal Code (XLV of 1860),—

(1) in section 53, the words “*Thirdly,—Penal servitude;*” shall be omitted;

(2) section 56 shall be omitted;

(3) in section 222, the words “or penal servitude for life,” and “or penal servitude” shall be omitted;

(4) in section 225, the words “penal servitude,” shall be omitted.

3. Amendment of Act V of 1898.—In the Code of Criminal Procedure, 1898 (V of 1898),—

(1) in sub-section (1) of section 4,—

(a) clause (i) shall be omitted;

(b) for clause (j), the following clause shall be substituted, namely:—

'(j) "High Court" means the highest Court of criminal appeal or revision for any local area; or, where no such Court is established under any law for the time being in force, such officer as the Provincial Government may appoint in this behalf.'

(2) sections 29A, 34A, 275, 284A and 285A shall be omitted;

(3) in section 812, the proviso shall be omitted;

(4) in section 826,—

(a) in sub-section (1), the words "and including, where any accused person is an European or an American, as many Europeans or Americans as may be required for the purpose of choosing jurors or assessors for the trial" shall be omitted;

(b) sub-sections (3) and (4) shall be omitted;

(5) in section 870, in clause (d), the brackets and words "(except in the case of an European British subject)" shall be omitted;

(6) in section 893, in clause (b), the words "or to penal servitude," shall be omitted;

(7) in section 896,—

(a) in sub-sections (1) and (3), the words "penal servitude" shall be omitted;

(b) in clause (a) of the *Explanation*, the words "or penal servitude" shall be omitted;

(8) in section 897, the words "penal servitude", wherever they occur, shall be omitted;

(9) in section 898, in sub-section (2), the words "or penal servitude for an offence punishable with imprisonment" shall be omitted, and for the words "transportation or penal servitude" the words "or transportation" shall be substituted;

(10) in section 402, in sub-section (1), the words "penal servitude" shall be omitted;

(11) Chapter XXXIII shall be omitted;

(12) in section 478, in sub-section (2), the words and figures "and of Chapter XXXIII in cases where that Chapter applies" shall be omitted;

(13) in section 480, sub-section (2) shall be omitted;

(14) section 491A shall be omitted;

(15) Chapter XLIV A shall be omitted;

(16) section 534 shall be omitted;

(17) in Schedule II,—

(a) in the second column relating to section 222, the words "or penal servitude for life" and "or penal servitude" shall be omitted;

(b) in the second column relating to section 225, the words "penal servitude" shall be omitted.

4. Amendment of Act III of 1900.—In the Prisoners Act, 1900 (III of 1900),—

(a) in section 8, the words "or penal servitude", in both places where they occur, shall be omitted;

(b) Part V shall be omitted.

5. Amendment of Act XV of 1908.—In the Indian Extradition Act, 1908 (XV of 1908),—

(a) in section 2, clause (a) shall be omitted;

(b) in sub-section (1) of section 7, the words "not being a European British subject" shall be omitted.

6. Amendment of the First Schedule to Act IX of 1908.—In the First Schedule to the Indian Limitation Act, 1908 (IX of 1908), article 150A shall be omitted.

7. Repeal of Acts XXIV of 1855 and IX of 1874.—The Penal Servitude Act, 1855 (XXIV of 1855), and the European Vagrancy Act, 1874 (IX of 1874), are hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Indian Penal Code, 1860, and the Code of Criminal Procedure, 1898, contain certain provisions which entitle Europeans and Americans to preferential treatment in matters of trial and punishment. These provisions are an anachronism and this Bill seeks to expunge them from the statute book. The repeal of the Penal Servitude Act, 1855, and the amendments to the Indian Limitation Act, 1908, and the Prisoners Act, 1900, as proposed in this Bill, are consequential to the proposal to eliminate all such discriminatory provisions.

2. The European Vagrancy Act, 1874, places vagrants of European extraction on a special footing as compared with the vagrants of other nationalities in India. There is no reason for such discriminatory treatment and the Act is now sought to be repealed.

3. The amendments to the Indian Extradition Act, 1908, are in line with the principle stated above.

V. J. PATEL.

NEW DELHI,

The 4th March, 1949.

A. BILL NO. 26 OF 1949.

1. Bill to amend the Merchant Shipping Act, 1894, and to provide for the extension of the laws in force in the Provinces of India relating to merchant shipping to Acceding States and for certain other matters.

WHEREAS it is expedient to amend the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), and to provide for the extension of the laws in force in the Provinces of India relating to merchant shipping to Acceding States and for certain other matters;

It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Merchant Shipping Laws (Extension to Acceding States and Amendment) Act, 1949.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. Extension of the Merchant Shipping Acts, 1894 to 1938 to Acceding States.—The Merchant Shipping Acts, 1894 to 1938, shall, so far as may be

applicable, extend to, and operate as part of the law of, all Acceding States as they extend to, and operate as part of the law of, the Provinces of India.

3. Amendment of the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60).—In section 1 of the Merchant Shipping Act, 1894, as it extends to, and operates as part of the law of, India,—

- (i) in paragraph (a), the word "natural-born" shall be omitted;
- (ii) paragraphs (b) and (c) and the proviso shall be omitted; and
- (iii) at the end of section 1, the following *Explanation* shall be added, namely:—

'Explanation.—The expression "British subjects" shall be deemed to include the Ruler and subjects of any of the Acceding States, and the expressions "Her Majesty's dominions" and "dominions" shall be deemed to include all Acceding States.'

4. Extension to Acceding States of other Acts relating to merchant shipping in force in the Provinces of India.—The Central Government may, by notification in the official Gazette, direct that any of the Acts relating to merchant shipping specified in the Schedule, shall extend to, and have effect in, any Acceding State or part thereof, subject to such exceptions or modifications as it thinks fit.

5. Performance of consular duties under the Merchant Shipping Acts, 1894 to 1938.—Where under the Merchant Shipping Acts, 1894 to 1938, as they extend to and operate as part of the law of India, anything is required or authorised to be done by, to or before a British consular officer at any place outside India, such thing may be done in that place by, to or before such other officer as the Central Government may, by notification in the official Gazette, specify in this behalf.

6. Proper national colours for ships registered in, or owned by persons domicilled in, or bodies corporate established in, India.—(1) The Central Government may, by notification in the official Gazette, declare what shall be the proper national colours for all ships registered in India, and for all vessels which are not registered in any British possession but are owned exclusively by persons domiciled in India or by bodies corporate established in India, and thereupon the colours so declared shall, in relation to all such ships and vessels, be the proper national colours for the purposes of sections 73 and 74 of the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), and any person hoisting on board any such ship or vessel any distinctive national colours, other than the proper national colours hereby so declared, shall be punishable with the penalty prescribed in sub-section (2) of section 73 of that Act.

(2) The Central Government may, by notification in the official Gazette, exempt any ship or vessel or any class of ships or vessels from the operation of this section.

7. Repeal of Ordinance XXVIII of 1948.—(1) The Merchant Shipping (Acceding States) Ordinance, 1948, is hereby repealed.

(2) The repeal by this Act of the Merchant Shipping (Acceding States) Ordinance, 1948, shall not affect the previous operation of or the validity of anything done or any action taken under the said Ordinance.

THE SCHEDULE.

(See section 4.)

Year.	No.	Short title.
1841	X	The Indian Registration of Ships Act, 1841.
1850	XI	The Indian Registration of Ships Act (1841) Amendment Act, 1850.
1856	IX	The Indian Bills of Lading Act, 1856.
1923	XXI	The Indian Merchant Shipping Act, 1923.
1925	XXVI	The Carriage of Goods by Sea Act, 1925.
1927	XVII	The Indian Lighthouse Act, 1927.

STATEMENT OF OBJECTS AND REASONS.

The Merchant Shipping Acts, 1894 to 1938, which are United Kingdom Statutes and which are in force as Indian Law in the Provinces of India, do not at present extend to Acceding States. It is, therefore, proposed to extend the provisions of these Acts to such States and also to bring within the scope of these Acts ships owned by Rulers and subjects of Acceding States and companies incorporated therein. These amendments will cover the provisions of Ordinance XXVIII of 1948, which was promulgated on the 11th of October, 1948, and which is now to be repealed. Incidentally, section 1 of the Merchant Shipping Act, 1894, is being simplified by omitting portions that are now superfluous.

2. Likewise, the Indian enactments relating to merchant shipping do not also apply to Acceding States. Power is now sought to be taken to extend either all or any of these enactments subject to such modifications as may be necessary to all or any of the Acceding States.

3. With the attainment of India's new political status, it is desirable that Indian shipping should fly distinctive national colours, and that consular functions under the Merchant Shipping Acts formerly performed by British consular officers should, as far as possible, be performed by Indian consular officers. Provisions enabling the introduction of these changes are included in the Bill.

K. C. NEOGY.

NEW DELHI:

The 3rd March, 1949.

The following Bill* was introduced in the Constituent Assembly of India (Legislative) on the 18th March, 1949:—

A. BILL NO. 27 OF 1949.

A Bill to extend the date up to which certain duties characterised as protective in the First Schedule to the Indian Tariff Act, 1934, shall have effect, to determine or levy protective duties in certain other cases and further to amend the Sugar Industries (Protection) Act, 1932.

WHEREAS it is expedient to extend the date up to which certain duties characterised as protective in the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), shall have effect, to determine or levy protective duties

* In pursuance of clause (a) of sub-section (1) of section 37 of the Government of India Act, 1935, the Governor-General has recommended the introduction of this Bill in the Legislature.

in certain other cases and further to amend the Sugar Industries (Protection) Act, 1932 (XIII of 1932);

It is hereby enacted as follows:—

1. Short title and commencement.—This Act may be called the Protective Duties (Miscellaneous Provisions) Act, 1949.

(2) It shall come into force on the 1st day of April, 1949.

2. Amendment of First Schedule, Act XXXII of 1934.—In the First Schedule to the Indian Tariff Act, 1934,—

(i) in Items Nos. 8(8), 17, 20(1), 20(8), 20(4), 46, 46(1), 47, 47(1), 48, 48(1), 48(4), 48(5) and 48(7), in the column headed "Duration of protective rates of duty", for the figures "1949", wherever they occur, the figures "1951" shall be substituted;

(ii) in Items Nos. 28(5), 48(10) and 61(5),—

(a) in the third column, for the word "Protective", wherever it occurs, the word "Revenue" shall be substituted; and

(b) the entry in the last column shall be omitted;

(iii) in Items Nos. 28(15), 28(16), 28(17), 28(18) (a), 28(19), 28(20), 30(9), 30(10), 68(30), 68(34), 70(2), 70(3), 71(7), 72(11) and 73(7), in the column headed "Duration of protective rates of duty", for the figures "1949", wherever they occur, the figures "1950" shall be substituted;

(iv) in Item No. 49,—

(i) in sub-item (a), for the figures, brackets and word "48(7) or 48(10)", the word, figures and brackets "or 48(7)" shall be substituted;

(ii) in sub-item (b), for the word, figures and brackets "or 48(9)" the figures, brackets and word "48(9) or 48(10)" shall be substituted;

(v) for Item No. 65, the following Item shall be substituted, namely:—

** 65	All non-ferrous nickel alloys including German-silver, nickel-silver and cupronickel— (a) containing 40 per cent. or less by weight of nickel. (b) containing more than 40 per cent. by weight of nickel.	Protective .	30 per cent <i>ad valorem.</i>	<i>ad</i>	..	..	March 1950.	31st,
		Revenue .	30 per cent <i>ad valorem.</i>	<i>ad</i>	..	..	..	";

(vi) in Item No. 72(1), in the second column, for the words "take-up motions, temples, and pickers", the words "take-up motions and temples" shall be substituted;

(vii) after Item No. 72(82), the following Item shall be inserted, namely:—

** 72 (33)	Pickers used in textile industries.	Protective .	10 per cent. <i>ad valorem</i>	<i>ad</i>	March 1951.	31st,
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(viii) after Item No. 78(14), the following Item shall be inserted, namely:—

"78(16)	Batteries for motor vehicles (including batteries which are interchangeable for automobile purposes on the one hand and radio, telephone and telegraph on the other) and plates for such batteries—					
	(a) of British manufacture	Protective .	80 per cent <i>ad valorem.</i>	..	..	March 31st, 1950.
	(b) not of British manufacture.	Protective .	Preferential rate of duty actually charged for the time being for such products of United Kingdom origin <i>plus</i> six per cent. <i>ad valorem.</i>	..	..	March 31st, 1950.";

(ix) in Item No. 75, in the second column, after the words "and accessories thereof" the words "other than batteries" shall be inserted;

(x) in Items Nos. 75(1) and 75(2), in the second column, for the brackets and words "(other than rubber tyres and tubes)", the brackets and words "(other than rubber tyres, tubes and batteries)" shall be substituted;

(xi) in Item No. 75(3), in the second column, for the words "rubber tyres and tubes", the words "rubber tyres, tubes and batteries" shall be substituted;

(xii) in Items Nos. 75(5), 75(6), 75(7), and 75(8), in the last column headed "Duration of protective rates of duty", for the figures "1949", the figures "1952" shall be substituted.

3. Amendment of preamble and section 8, Act XIII of 1932.—In the preamble to the Sugar Industry (Protection) Act, 1932, and in section 8 thereof, for the figures "1949", wherever they occur, the figures "1951" shall be substituted.

————— STATEMENT OF OBJECTS AND REASONS.

The object of the present Bill, which has been prepared in the light of certain recommendations made by the Tariff Board, is:—

- (a) to continue protection to the following industries:—
 - (1) Sugar,
 - (2) Artificial silk and artificial silk and cotton mixed fabrics,
 - (3) Sericulture,
 - (4) Bicycles and bicycle parts and accessories,
 - (5) Preserved fruits,
 - (6) Calcium chloride,
 - (7) Phosphoric acid,
 - (8) Bichromates,
 - (9) Sodium phosphates,
 - (10) Potassium permanganate,
 - (11) Oleic and stearic acids,

- (12) Coated abrasives,
 - (18) Antimony,
 - (14) Hurricane lanterns,
 - (15) Sewing machines,
 - (16) Dry batteries,
 - (17) Steel baling hoops, and
 - (18) Alloy, tool or special steel;
- (b) to give protection to the following industries:—
- (1) Pickers, and
 - (2) Motor vehicle batteries and plates therefor;
- (c) to restrict protection to alloys containing nickel in low proportion only; and
- (d) to discontinue protection in the case of Magnesium chloride and Gold and silver thread industries.

K. C. NEOGY,

NEW DELHI,
The 11th March, 1949.

The following Bill was introduced in the Constituent Assembly of India (Legislative) on the 21st March, 1949:—

A BILL No. 28 OF 1949.

A Bill further to amend the Bombay Port Trust Act, 1879.

WHEREAS it is expedient further to amend the Bombay Port Trust Act, 1879 (Bom. Act VI of 1879), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title.**—This Act may be called the Bombay Port Trust (Amendment) Act, 1949.

2. **Insertion of new section 64A in Bom. Act VI of 1879.**—After section 64 of the Bombay Port Trust Act, 1879 (hereinafter referred to as the said Act), the following new section shall be inserted, namely:—

"64A. Disposal of goods not removed from the premises of the Board within time limited.—(1) Notwithstanding anything contained in this Act, where any goods placed in the custody of the Board upon the landing thereof are not removed by the owner or other person entitled thereto from the premises of the Board within one month from the date on which such goods were placed in their custody, the Board may, if the address of such owner or person is known, cause a notice to be served upon him by letter delivered at such address or sent by post requiring him to remove the goods forthwith and stating that in default of compliance therewith the goods are liable to be sold by public auction:

Provided that, where all the rates and charges payable under this Act in respect of any such goods have been paid, no notice of removal shall be served under this section unless two months have expired from the date on which the goods were placed in the custody of the Board.

(2) If such owner or person is not known or the notice cannot be served upon him, or he does not comply with the requisition in the notice,

the Board may, at any time after the goods have become liable to be sold under sub-section (1), sell the goods by public auction after giving notice of the sale in the manner prescribed in paragraphs 2 and 8 of section 64.

(3) The Central Government may, by notification in the official Gazette, exempt any goods or class of goods from the operation of this section."

3. Amendment of section 65, Bom. Act VI of 1879.—In section 65 of the said Act, for the words "In every case of any such sale as aforesaid", the words "In the case of any sale under section 64 or section 64A" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

At present there is no provision in the Bombay Port Trust Act, 1879, enabling the Trustees to remove goods from the docks so long as the consignees continue to pay the port dues accruing thereon. This lacuna in the Act has enabled the consignees to utilise valuable dock space as private storage space for their goods for indefinite periods, thereby causing acute congestion in the Port of Bombay.

It is therefore proposed to add a new section in the Bombay Port Trust Act, 1879, on the analogy of section 56 of the Indian Railways Act, enabling the Trustees to sell by auction goods not removed by the consignees after a certain period. It is also proposed to confer on the Central Government powers to exempt any goods or class of goods from the operation of the section, e.g., the stores of the Defence Services.

NEW DELHI;

N. GOPALASWAMI AYYANGAR.

The 11th March, 1949.

The following Bill was introduced in the Constituent Assembly of India, (Legislative) on the 22nd March, 1949:—

A. BILL NO. 29 OF 1949

A Bill to restrict the liability of banking companies in connection with certain transactions by legal practitioners.

WHEREAS it is expedient to restrict the liability of banking companies in connection with certain transactions by legal practitioners;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Banking Companies (Legal Practitioners' Clients' Accounts) Act, 1949.

(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

(3) It shall come into force in the Presidency-town of Bombay at once, and in the rest of the Province of Bombay or any part thereof or in any other Province or any Acceding State or any part of such Province or State on such date or dates as the Central Government may, by notification in the official Gazette, appoint.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "banking company" means any banking company as defined in section 5 of the Banking Companies Act, 1949 (X of 1949) and includes the Imperial Bank of India;

(b) "legal practitioner" has the same meaning as in the Legal Practitioners Act, 1879 (XVIII of 1879).

3. Restriction of liability of banking companies in certain cases.—(1) Where, under any law or rules having the force of law, a legal practitioner keeping an account in a banking company for clients' moneys, may only operate on such account for specified purposes, then, neither the banking company with which such an account is kept nor any other banking company shall, in connection with any transaction relating to such account, incur any liability, or be under any obligation to make any inquiry, or be deemed to have any knowledge of any right of any person to any money paid or credited to such account, which it would not incur, or be under, or be deemed to have, in the case of an account kept by a person entitled absolutely to all the money paid or credited to the account:

Provided that nothing in this sub-section shall—

(i) apply to the case of an account kept by a legal practitioner as trustee for a specified beneficiary, or

(ii) relieve a banking company from any liability or obligation which it would incur or be under, apart from this Act.

(2) Notwithstanding anything contained in sub-section (1), a banking company in which a legal practitioner keeps an account for clients' moneys shall not, in respect of any liability of such practitioner to the banking company, not being a liability in connection with that account, have or obtain any recourse or right, whether by way of set-off, counter-claim, charge or otherwise, against moneys standing to the credit of that account.

STATEMENT OF OBJECTS AND REASONS

Under the rules framed by the Bombay High Court, an attorney practising there has to keep an account at a bank for clients' moneys in the title of which the word "client" shall appear and he can operate on that account only for the purposes specified in the rules. The legal effect of these rules is that a bank is fixed with a notice of trust and is bound to enquire into the purposes of withdrawal, whenever any transaction is sought to be made on such clients' accounts. These rules have placed on banks a great measure of special responsibility and they also interfere with the free transferability of cheques drawn on such accounts. The object of the present Bill is to protect banks in India by relieving them of such special responsibility and to ensure free transferability of cheques. In the United Kingdom, where similar rules are in force in regard to the clients' accounts of solicitors, the banks are protected by the Solicitors Act of 1923. The present Bill seeks to give similar protection to the banks in India.

The proposed measure will, in the first instance, apply to the Presidency town of Bombay where such rules are in force. But it may be later extended to other places, if and when similar laws or rules are made for those places.

NEW DELHI;

The 8th March, 1949.

JOHN MATTHAI.

The following Bill was introduced in the Constituent Assembly of India (Legislative) on the 28th March, 1949.—

A. BILL No. 30 of 1949

A Bill to provide for the development, regulation and control of certain industries.

WHEREAS it is expedient in the public interest to provide for the development*, regulation and control of certain industries ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Industries (Development and Control) Act, 1949.

(2) It extends to all the Provinces of India and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. **Declaration as to expediency of control by Central Government.**—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the development of the industries specified in the Schedule.

3. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) “controlled industry” means any of the industries specified in the Schedule ;

(b) “factory” means a factory within the meaning of sub-clause (i) of clause (m) of section 2 of the Factories Act, 1948 (LXIII of 1948), but does not include a factory whereon the number of workers who are working, or were working on any day of the preceding twelve months, is or was less than twenty ;

(c) “Government” means the Central Government or a Provincial Government or the Government of an Acceding State ;

(d) “industrial undertaking” means any undertaking pertaining to a controlled industry carried on in one or more factories by any person or authority, including Government ;

(e) “notified order” means an order notified in the official Gazette ;

(f) “owner”, in relation to an industrial undertaking, means the person or authority who has ultimate control over the affairs of the undertaking and where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the owner of the undertaking ;

(g) “prescribed” means prescribed by rules made under this Act.

4. **Registration of existing industrial undertakings.**—(1) The owner of every existing industrial undertaking, not being the Central Government, shall, within a period of three months from the date of commencement of this Act, register the undertaking in the prescribed manner.

(2) The Central Government shall also cause to be registered in the same manner every existing industrial undertaking of which the Central Government is the owner.

5. **Licensing of new industrial undertakings.**—(1) No person or authority other than the Central Government shall, after the commencement of this Act, establish any new industrial undertaking except under and in accordance with a licence issued in that behalf by the Central Government :

Provided that a Government other than the Central Government may with the previous permission of the Central Government establish a new industrial undertaking.

(2) A licence or permission under sub-section (1) may contain such conditions including, in particular, conditions as to the location of the undertaking and the minimum standards in respect of size, equipment and technique to be provided therein as the Central Government may deem fit to impose in accordance with the rules, if any, made under section 10.

(3) The Central Government may subject to rules made in that behalf under section 10, revoke, vary or amend any licence issued or permission granted under this Act.

6. Licensing of substantial expansions of industrial undertakings.—The provisions of section 5 shall apply in relation to the effecting of any such expansion of an industrial undertaking as is prescribed to be substantial, as they apply in relation to the establishing of any new industrial undertaking.

7. Special provisions for the exercise of functions of control by the Central Government with regard to certain industrial undertakings.—(1) If, after a direction has been issued in pursuance of the rules made under section 10 requiring an industrial undertaking to take any action or steps with regard to any of the matters mentioned in clauses (a) and (b) of sub-section (2) of that section or prohibiting an industrial undertaking from resorting to any act or practice which might reduce its production, capacity or economic value, the Central Government is satisfied that such direction has not been complied with, or if the Central Government is satisfied that it is necessary so to do in the public interest, the Central Government may, by order, authorise any person (hereinafter referred to as an authorised person) to exercise, with respect to the whole or any part of any such undertaking, such functions of control as may be provided by the order; and so long as an order made under this section is in force with respect to any undertaking or part thereof—

(a) the authorised person shall exercise his functions in accordance with any instructions given to him by the Central Government, so, however, that he shall not have any power to give any directions inconsistent with the provisions of any Act or other instrument determining the functions of the person or authority carrying on the undertaking except in so far as may be specifically provided by the order, and

(b) the undertaking or part shall be carried on in accordance with any directions given by the authorised person in accordance with the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions.

(2) Any order made under this section shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

8. Prohibition of taking over management or control of industrial undertakings by Governments other than the Central Government, or by a local authority.—Notwithstanding anything contained in any other law which authorises Government or a local authority so to do, no Government other than the Central Government and no local authority shall take over the management or control of any industrial undertaking under any such law, except with the previous permission of the Central Government.

9. Constitution of Advisory Council.—(1) The Central Government shall constitute an Advisory Council to advise on matters concerning the development, control and regulation of any controlled industry.

(2) The number and term of office of, the procedure to be followed by, and the manner of filling casual vacancies among, members of the Advisory Council shall be such as may be prescribed.

- (3) The Central Government shall consult the Advisory Council in regard to—
(a) the revoking of any licence or permission under sub-section (3) of section 5, or under that sub-section read with section 6 ;
(b) the taking of any action under section 7;
(c) the making of any rules under sub-section (2) of section 10 : and
(d) the general policy to be followed in regulating the matters mentioned in clauses (a) and (b) of sub-section (2) of section 10.

10. Power to make rules as respects control and regulation of controlled industries.—(1) The Central Government may, subject to the condition of previous publication, make rules for the control and regulation of all or any of the industries specified in the Schedule.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) requiring any industrial undertaking to take such steps as the Central Government may consider necessary to stimulate the development of the industry to which such undertaking relates ;
(b) the regulation of the production of any industrial undertaking and the use of raw materials therein and the fixation of standards of production ;
(c) the issue of directions for prohibiting any industrial undertaking from resorting to any act or practice which might reduce its production, capacity or economic value ;
(d) requiring any industrial undertaking to provide facilities therein for the training of technicians and labour ;
(e) the collection of any information or statistics in respect of any controlled industry ;
(f) the manner of registration of industrial undertakings under section 4 ;
(g) the procedure for the grant or issue of licences and permissions under sections 5 and 6 including, in particular, the previous consultation with the Governments concerned in regard to the grant of any such licences ;
(h) the regulation of the conditions which may be included in such licences and permissions ;
(i) the conditions on which such licences and permissions may be revoked, varied or amended ;
(j) substantial expansions of industrial undertakings for the purposes of section 6 ;
(k) the constitution of the Advisory Council under section 9, and the number and term of office of, the procedure to be followed by, and the manner of filling casual vacancies among, members of the Advisory Council, constituted under that section ;
(l) the maintenance of books, accounts and records relating to an industrial undertaking, and employment of any accounting and auditing staff therein ;
(m) the submission of special or periodical returns and reports relating to an industrial undertaking by persons having the control of, or employed in connection with, such undertaking, and the forms in which and the authorities to whom such returns and reports shall be submitted.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable under section 12.

(4) All rules made under this section shall be laid for not less than fourteen days before the Central Legislature as soon as possible after they are made, and shall be subject to such modifications as that Legislature may make during the session in which they are so laid.

11. Delegation.—The Central Government may, by notified order, direct that any power exercisable under this Act by the Central Government shall be exercised, subject to such conditions, if any, as may be specified therein, by such officer or authority including Governments of Provinces and Acceding States and officers and authorities thereof as may be specified in the direction.

12. Penalties—(1) Whoever contravenes, or attempts to contravene, or abets the contravention of, the provisions of sub-section (1) of section 4, or of sub-section (1) of section 5, or of sub-section (1) of section 5 read with section 6, or of clause (b) of sub-section (1) of section 7, or of any rule the contravention of which is punishable under this section, shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) If the person contravening any of the said provisions is a company or other body corporate, every director, manager or secretary thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention:

Provided that the company or other body corporate may give notice to the Central Government that it has nominated a director or manager or secretary thereof to be the person who shall be liable under this sub-section for the contravention of any of the said provisions by the company or other body corporate, and such person shall, in the case of any contravention of any of the said provisions by such company or other body corporate, be deemed to be guilty of such contravention under this sub-section to the exclusion of any other officer thereof mentioned therein until further notice cancelling his nomination is received by the Central Government or until he ceases to be a director, manager or secretary, as the case may be, of such company or other body corporate.

13. Previous sanction of Central Government for prosecutions.—No prosecution for any offence punishable under section 12 shall be instituted except with the previous sanction of the Central Government.

14. Jurisdiction of courts.—No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under section 12.

15. Power of inspection.—(1) For the purposes of ascertaining the position of working of any industrial undertaking or for any other purpose mentioned in this Act or the rules made thereunder, any officer authorised by the Central Government in this behalf shall have the right to—

(a) enter and inspect any premises;

(b) order the production of any document, book, register or record in the possession or power of any person having the control of, or employed in connection with, any industrial undertaking; and

(c) examine any person having the control of, or employed in connection with, any industrial undertaking.

(2) Any officer authorised by the Central Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860)

16. Exemption in special cases.—The Central Government may, if satisfied that it is in the public interest so to do, exempt any industrial undertaking from the operation of all or any of the provisions of this Act or any rules made thereunder.

17. Protection of action taken in good faith.—No suit, prosecution or other proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

18. Amendment of section 2, Act XIV of 1947.—In section 2 of the Industrial Estates Act, 1947 (XIV of 1947),—

(a) in sub-clause (i) of clause (a), after the words “by a railway company operating a Federal Railway” the words “or concerning any such controlled industry as may be specified in this behalf by the Central Government” shall be inserted;

(b) after clause (e), the following clause shall be inserted, namely:—

“(ee) ‘controlled industry’ means any industry the development of which under Central control has been declared by any Central Act to be expedient in the public interest;”.

THE SCHEDULE.

[See sections 2 and 3 (a).]

Any industry engaged in the manufacture or production of any of the following:—

- (1) Aircraft.
- (2) Arms and ammunition.
- (3) Automobiles, including tractors.
- (4) Cement.
- (5) Coal, including coke and other derivatives.
- (6) Electric lamps and fans.
- (7) Electric motors.
- (8) Heavy chemicals including fertilizers.
- (9) Heavy machinery used in industry including ball and roller bearing and gear wheels and parts thereof, boilers and steam generating equipment.
- (10) Iron and steel.
- (11) Locomotives and rolling stock.
- (12) Machine tools.
- (13) Machinery and equipment for the generation, transmission and distribution of electric energy.
- (14) Motor and aviation fuel, kerosene, crude oils and synthetic oils.
- (15) Non-ferrous metals including alloys.
- (16) Paper and newsprint.
- (17) Pharmaceuticals and drugs.
- (18) Power and industrial alcohol.
- (19) Rubber goods.
- (20) Salt.
- (21) Ships and other vessels propelled by the agency of steam, or by electricity or other mechanical power.
- (22) Sugar.
- (23) Tea.
- (24) Telephones, telegraph apparatus and wireless communication apparatus.
- (25) Textiles made of cotton, jute or wool.

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to provide the Central Government with the mean of implementing their industrial policy which was announced in their resolution No. I(8)-44(12)48, dated 6th April 1948 and approved by the Central Legislature. The Bill brings under Central control the development and regulation of a number of important industries the activities of which affect the country as a whole and the development of which must be governed by economic factors of all India import. The planning of future development on sound and balanced lines sought to be secured by the licensing of all new undertakings by the Central Government. The Bill confers on Government power to make rules for registration of existing undertakings, for regulating the production and development of the industries in the Schedule and for consultation with Provincial Governments on these matters. Provision has also been made for the constitution of a Central Advisory Council, prior consultation with which will be obligatory before the Central Government takes certain measures such as the revocation of a licence or taking over the control and management of any industrial concern.

SYAMA PRASAD MOOKERJEE

NEW DELHI,
The 21st March, 1949.

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M. N. KAUL,
Secy. to the Govt. of India.